IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Bail Appl..No. 5359 of 2007()

CRIME NO.446/07 OF HARBOUR POLICE STATION

PETITIONER:

V.H.M. RAFEEQUE, S/O. V.A. HAMSA,
11/45, VALIYAPARAMBIL, PALLURUTHY.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5359 OF 2007

Dated this the 11th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the office bearer of a trade union. The crux of the allegations raised by the de facto complainants is that they had paid amounts ranging from Rs.8,000/- to Rs.2,000/- to the union on the promise that jobs will be secured for them. It is the grievance of the de facto complainants that the amounts have not been repaid; nor have jobs been made available to them. They have a further allegation that when the amounts were demanded, they were threatened and intimidated by the petitioner allegedly an influential political activist. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. Interim directions were issued on 24/8/07. In pursuance of that direction, the petitioner was taken into

custody and released immediately.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The amounts were received long earlier and admittedly receipts were issued showing that the amounts were paid as donation towards the building fund of the union. The learned counsel for the petitioner points out that the receipts were issued not by the petitioner; but by the then office bearer of the trade union. For extraneous reasons and on account of oblique motives, false and frivolous allegations are now being raised against the petitioner, it is urged.

4. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the application. I have perused the Case Diary. Notwithstanding the opposition by the learned Public Prosecutor, I am satisfied that this is a fit case where the petitioner can be granted anticipatory bail. Appropriate conditions can, of course, be imposed on the petitioner in the interests of a fair, efficient and expeditious investigation.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C. The

petitioner shall comply with this direction notwithstanding the fact that in pursuance of the interim directions, he was taken into custody and released:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 18/9/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on19/9/07 and 20/9/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 18/9/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 18/9/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge